GOVERNMENT OF KERALA
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SUPPLEMENTS

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PART I

GOVERNMENT OF KERALA

Abstract

PUBLIC SERVICES—QUALIFICATIONS—RECOGNITION OF KERALA GOVERNMENT CERTIFICATE EXAMINATIONS IN ENGINEERING—ORDERS ISSUED

PUBLIC (SERVICES-D) DEPARTMENT

G. O. (MS) No. 165/70/PD. *Dated, Trivandrum, 21st May* 1970.

Read:—1. Letter No. C2-19512/69 dated 3-6-1969 from the Director of Technical Education.

2. From the Kerala Public Service Commission letter No. AII-(3)-3138/70 dated 2-4-1970.

ORDER

The Government direct, in consultation with the Public Service Commission, that the Kerala Government Certificate Examinations in Civil, Mechanical and Electrical Engineering be prescribed as an alternative qualification in respect of all posts for which the Kerala Government Technical Examinations in Civil, Mechanical and Electrical Engineering has been prescribed.

By order of the Governor,
G. SUKUMARAN NAIR,
Deputy Secretary.

To

The Secretary, Kerala Public Service Commission (with C. L.)
The Director of Technical Education
All Heads of Departments and Offices
All Officers of the Secretariat
All Departments (all Sections) of the Secretariat
The Registrar, High Court, Ernakulam (with C. L.)
The Registrar, University of Kerala (with C. L.)
The Registrar, University of Calicut (with C. L.)
The General Manager, Kerala State Road Transport Corporation (with C. L.)
The Advocate General, Ernakulam (with C. L.)
The Secretary, Kerala State Electricity Board (with C. L.)
The Secretary to the Governor
The Private Secretaries to the Chief Minister and other Ministers
The Stenographers to the Chief Secretary and Additional Chief Secretary
The Director of Public Relations (6 copies)

G. 1102.

Kerala Gazette No. 24 dated 16th June 1970.
PART I

GOVERNMENT OF KERALA

Labour and Social Welfare (H) Department

NOTIFICATION

No. 18730/H4/70/LSWD. *Dated, Trivandrum, 29th May* 1970.

The award of the District Labour Officer, Trichur in respect of the dispute between the Management of A. B. T (P) Ltd. Chalakudy and their workmen represented by the Secretary, A. B. T. Motor Thozhilali Union, Chalakudy received by Government on 15-5-1970 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

M. DANDAPANI,
Ex-Officio Joint Secretary.

Before the Arbitrator (District Labour Officer, Trichur).

Present

U. R. KRISHNAN, B. A. B. L., D. S. W.

IN THE MATTER OF ARBITRATION IN INDUSTRIAL DISPUTE No. 1/69.

Between

1. The Manager, A. B. T. (P) Ltd., Chalakudy.	*Representing Employer.*
2. The Secretary, A. B. T. Motor Thozhilali Union, Chalakudy.	*Representing Workmen.*

AWARD

This dispute between the management of M/s. A. B. T. (P) Ltd., Chalakudy and their workmen represented by A. B. T. Motor Thozhilali Union, Chalakudy over the dismissal of a workman by name Sri K.A. Kadarsha was referred to my arbitration as per an agreement entered into between the parties under Section 10-A of the Industrial Disputes Act, 1947. The agreement was published in the Kerala Gazette dated 28th October 1969 vide notification No. 32601/H4/69/LSWD. dated 7-10-1969.

Sri. Kadarsha was a conductor under M/s. A. B. T. (P) Ltd., Chalakudy. He was dismissed from services for the charges of misconduct.

Both the parties filed their written statements before me. When the case was taken up for evidence the parties filed before me a joint application together with a copy of agreement entered into between them on 24-3-1970

(Copy attached) stating that they have settled the matter out of Court, and requested for an Award on the terms of the said settlement dated 24-3-1970.

In the circumstances I pass an Award on the terms of settlement arrived at between the parties on 24-3-1970.

This Award will come into force after the expiry of 30 days of its publication in the Official Gazette.

Dated the 8th day of May 1970.

(Sd.)
Arbitrator,
(District Labour Officer, Trichur.)

MEMORANDUM OF SETTLEMENT

Name of parties:—

Representing Employer:— Sri. S. K. Krishnamurthi,
Branch Manager,
M/s. Annamallais Bus Transport (P) Ltd., Branch, Chalakudy.

Representing Workmen:— Sri. K. A. Kadersha—Worker,
Sri., C. K. Parameswaran,
Adviser, ABT. Motor Thozhilali Union,
Chalakudy.

SHORT RECITAL OF THE CASE

It was agreed between the parties by a settlement dated 10-11-1968, that the case relating to the dismissal of Sri. K. A. Kadersha former conductor in this Branch might be referred to the arbitration of the District Labour Officer, Trichur. The case was duly notified in the Official Gazette, and it was taken on the file of the District Labour Officer, Trichur as Arbitration in I.D. No. 1 of 1969. In the meanwhile, there were prolonged negotiations between the parties on several days and the following settlement was effected in the matter.

1. Sri. K. A. Kadersha will be paid the full P. F. Amount.

2. For Gratuity admissible to him under the Kerala Industrial Employees Payment of Gratuity Act 1970 (Act 6 of 1970) and also the subsistance allowance that may be paid to him for the period of suspension from 23-10-1967 to 28-8-1968, a lump sum of Rs. 1,500 will be paid to him.

3. P. F. Amount will be paid to him within a month. The remaining amount as per agreement will be paid to him immediately.

4. By the receipts of the above amounts, Sri, K. A. Kadersha has settled all his claims against the management.

5. The parties will present a joint petition to the Arbitrator in this case praying for the disposal of the case as indicated above.

Trichur,
24th March, 1970

1. (Sd.)
2. (Sd.)
3. (Sd.)

Witness:—

1. A. K. Abdul Rahman (Sd.)
2. C. Divakaran (Sd.)

Copy to: The District Labour Officer, Trichur (Arbitrator)
The parties, etc. ....

GOVERNMENT OF KERALA

Labour and Social Welfare (H) Department.

NOTIFICATION

No. 15086/H4/70/LSWD. *Dated, Trivandrum, 20th April* 1970.

The award of the Labour Court, Quilon in respect of the dispute between the Management of P. S. N. Motors (P) Ltd., Trichur and their workmen (1) Shri C. K. Sankarankutty Nair, Vijayavilasam, Nattika P. O., Via Thalikulam (2) Shri E. P. Sreedharan, Eramath House, Chowara P. O. (Via) Alwaye (3) Shri E. P. Abraham, Elayikamalil House, Kodanad P.O., Perumbavoor (4) Shri K. Divakara Menon, Kalloor P. O., Alagappanagar, (5) Shri K. P. Varghese, Kottakal House Ezhikkara Pakuthy, Pallikkal Muri, N. Parur received by Government to 16-4-1970 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

S. NAGARAJAN,
Ex-Officio Deputy Secretary.

In the Labour Court, (Kerala State) Quilon

Camp: Ernakulam.

Dated this the 21st day of March, 1970.

Present:

SHRI M. V. A. DIAS, B. A., B. L., M. S. I. R. (Chicago)

In

INDUSTRIAL DISPUTE No. 95/66.

Between

THE MANAGEMENT

OF P. S. N. MOTORS (P) LTD., TRICHUR.

And

THEIR WORKMEN

1. Shri C. K. Sankarankutty Nair, Vijaya Vilasom, P. O. Nattika. (Via) Thalikulam
2. Shri E. P. Sreedharan, Eramath House, Chowara P. O., (Via) Alwaye
3. Shri E. P. Abraham, Elanjikamalil House, Kodanad P. O., Perumbavoor
4. Shri K. Divakara Menon, Kalloor P. O., Alagappanagar, Trichur District

5. Shri K. P. Varghese, Kottakkal House, Ezhikkara Pakuthy, Pallikkal Muri, North Parur.

Representations :

Shri V. Sivaraman Nair & Shri A. Inees, Advocates, Ernakulam. — *For the Management*

Shri M. P. Menon, Advocate, Ernakulam. — *For the Workmen*

AWARD

This is an Industrial dispute between the Management of P. S. N. Motors (P) Ltd., Trichur and their workmen (1) Shri C. K. Sankarankutty Nair, Vijaya Vilasom, P. O. Nattika, (via) Thalikulam. (2) Shri E. P. Sreedharan, Eramath House, Coowara P. O., (via) Alwaye. (3) Shri E. P. Abraham, Elanjikamalil House, Kodanad P. O., Perumbavoor. (4) Shri K. Divakara Menon, Kalloor, P. O., Alagappanagar, Trichur District. (5) Shri K. P. Varghese, Kottakkal House, Ezhikkara Pakuthy, Pallikkal Muri, North Parur over "Dismissal of 1. Shri C. K. Sankarankutty Nair (Checking Inspector) 2. Shri E. P. Sreedharan (Conductor). 3. Shri E. P. Abraham (Conductor). 4. Shri K. Divakara Menon (Conductor). 5. Shri K. P. Varghese (Conductor)" referred to this Court for adjudicating under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) by the Government of Kerala, in their Order, Health and Labour (H) Department, G. O. Rt. No. 4297/66/HLD, Trivandrum, dated 2-12-1966.

2. In pursuance of notice issued, the parties put in their respective statements. The dismissed workmen Shri C. K. Sankarankutty Nair, Checking Inspector, Shri K. P. Varghese, Conductor, Shri E. P. Abraham, Conductor, Shri E. P. Sreedharan. Conductor and Shri K. Divakara Menon, Conductor were examined as WW1 to WW5 respectively, and Exhibits W1 and W2 filed by the workmen. The management examined Shri K. S. Manikkam, Part time Enquiry Officer attached to the P. S. N. Motors (P) Ltd., as EW1 and proved Exhibits E1 to E12 series.

3. The case of the union briefly stated is that P. S. N. Motors (P) Ltd., and other allied concerns were run by a partnership consisting of Mr. and Mrs. P. N. Krishna Iyer, with one Sri P. V. Narayanan at Trichur and Shri I. R. Narayanan at Ernakulam both of them close relatives of Shri P. N. Krishna Iyer. Due to difference of opinion among these persons Shri P. V. Narayanan and Shri I. R. Narayanan left the concern, and were succeeded by others. The newly constituted management took up an hostile attitude towards those workmen who were loyal to the above two persons who had left the concern. Some of the employees preferred claims for overtime wages in Payment of Wages Application No. 178/65, and some others pressed their claims for gratuity or retirement benefits in I.D. 4and 17 of 1964. Disputes regarding gratuity in respect of the staff attached to the

concern was pending adjudication in I. D. 10/65. The dismissal of the five workmen under reference and several others was effected as an act of victimization against those workmen who were loyal to the two persons who left the concern. It is also suggested by the union that some of the workmen were dismissed from service to avoid payment of gratuity or retrenchment compensation.

4. The case against Shri Sankarankutty Nair, Checking Inspector, and Shri E. P. Sreedharan, Conductor, is that while bus No. K. L. R. 1132, running between Trichur and Krishnankotta, was checked by the chief Checking Inspector Shri Govindankutty Nair, at about 2 p. m. on 16-1-1966, near Krishnankotta church, when the bus was approaching the last stage of its journey from Trichur to Krishnankotta, about 3 furlongs away from Krishnankotta, Checking Inspector Sri Sankarankutty Nair and Conductor Shri E. P. Sreedharan were found standing on the foot board of the bus. As Sri Govindankutty Nair boarded the bus, Sri C. K. Sankarankutty Nair entered the bus and made out a single ticket for 10 Ps. and another composite ticket for 20 passengers for Rs. 2 travelling between Chenthuruthy and Krishnankotta. It is alleged that Sri C. K. Sankarankutty Nair in collusion with Sri E. P. Sreedharan had not issued the tickets before the Chief Checking Inspector Sri Govindankutty Nair was sighted, and that the composite ticket for 20 passengers was written to cover up the attempted defalcation. According to the union, the tickets under reference were written in the usual manner, and neither Sri C. K. Sankarankutty Nair nor Sri E. P. Sreedharan had any intention of mis-appropriating any amount belonging to the company, and that the misconduct alleged to have been committed by them is based on mere suspicion. It is denied that the ticket was manipulated by Sri C. K. Sankarankutty Nair when the Chief Checking Inspector Sri Govindankutty Nair was sighted. It is the case of the union that the finding of the Enquiry Officer is perverse as it is based on insufficient material, conjectures and surmises. Sri C. K. Sankarankutty Nair who entered service in 1954 has been maintaining a clean record of service. Conductor Sri E. P. Sreedharan who had entered service in 1956 has also been maintaining a clean record of service.

5. It is alleged that Sri K. Divakara Menon, who entered service as a conductor in 1954, was on duty in the Maradu-Wellington Island Bus on 1-3-1966, and that when the bus was checked at 9·55 a. m. at the Cochin Harbour Terminus bus stop, it was found that while there were 40 passengers in the bus, Sri K. Divakara Menon had not issued tickets to 10 passengers, two of them from Trippunithura, two from Petta, one from Thevara and five from Halt. The contention of the union is that conductor Sri Divakara Menon had an injury on his hand, which was kept bandaged, that he had requested the Ernakulam Manager not to depute him for duty in that particular bus, as it would invariably be overcrowded during peak-hours, for the reason that he could not use both his hands properly. In spite of the request, it is alleged that he was prevailed upon to go for duty, that the checking was done at 9·55 a. m. at a time when there was heavy rush of passengers, and that Sri Divakara Menon could not issue tickets to all the passengers as the

bus happened to be overcrowded. The union would have us believe that "it was a simple case of sheer inability to issue tickets", and therefore the dismissal is illegal, and has to be set aside.

6. Sri K. P. Varghese, who had admittedly put in 11 years' service, was transferred from Ernakulam to Trichur soon after a strike at Ernakulam, and was assigned duty in the Trichur-Pallikadavu route. He along with others had filed Payment of Wages Application No. 178/65 on the file of this Court. It is alleged that on 2-4-1966, when the bus KLR. 3230, proceeding from Trichur to Pallikkadavu, was checked in front of the Parayam toddy shop, by Checking Inspector Sri Guruvayurappan, there were 56 passengers in the bus, but Conductor Sri K. P. Varghese had failed to issue tickets to 8 of them travelling in the bus from Koratty to Pallikkadavu. It is alleged that Sri K. P. Varghese had collected fares from these passengers, and was standing on the foot board of the bus with the ticket book in his bag, without issuing tickets even though the bus had travelling about a mile from the place. It is the case of the union that the tickets were not issued as there was overcrowding in the bus, that the conductor had informed the Checking Inspector that a few more tickets had to be issued by him at the time of checking, that the conductor was victimized for filing the Payment of Wages Application, and that the finding of the enquiry officer is perverse and therefore the dismissal has to be set aside.

7. The case against Sri E. P. Abraham is that he was absent from duty without leave. It is contended by the union that no opportunity was given to Sri E. P. Abraham to prove his innocence, that the enquiry was conducted in his absence, and that the dismissal was effected purely because of his trade union activities and also for filing the Payment of Wages Application. The finding is perverse, and the dismissal has therefore to be set aside.

8. It is clear from the evidence recorded at the domestic enquiry against Sri C. K. Sankarankutty Nair, Checking Inspector, and Shri E. P. Sreedharan, Conductor, that the misconduct alleged to have been committed by them, for which they have been dismissed from service, is based on suspicion that Sri Sankarankutty Nair had manipulated a ticket for 20 passengers when the chief Checking Inspector was sighted, and that both of them had intended to pilfer or misappropriate the collection conjointly. It has not been proved that any money had been collected from the passengers. It is obvious that the enquiry officer has come to the conclusion that Sri C. K. Sankarankutty Nair and Sri E. P. Sreedharan had intended to misappropriate the collection, but gave up the attempt when the Chief Checking Inspector boarded the bus. In my opinion, the finding that Sri Sankarankutty Nair, Checking Inspector and Conductor Sri E. P. Sreedharan are guilty of an attempt to misappropriate the bus fare is based on a suspicion that Checking Inspector Sri C. K. Sankarankutty Nair would not have written up the tickets if the Chief Checking Inspect or had not appeared at the time to check the bus. The finding is obviously perverse and is based on insufficient material. In the result, the dismissal of Checking Inspector Sri C. K. Sankarankutty Nair and conductor Sri E. P. Sreedharan has to be set aside.

9. It is admitted by Sri Divakara Menon that he had failed to issue tickets to 8 passengers in the bus, two of them from Trippunithura, eight miles away from the place where the checking took place, two from Petta, one from Thevara and five from Halt, six, three and two miles respectively away from the place where the Checking Inspector checked the bus. The contention raised by the conductor that the bus was overcrowded and that he had an injury on one of his hands, is obviously an afterthought and does not appear to be genuine, especially in view of the fact that tickets were not issued to two of the passengers who had boarded the bus several miles away from the spot where the Bus was checked. The enquiry conducted against him is in keeping with the principles of natural justice. I do not find any reason why the decision taken by the management should be interferred with. Similarly conductor Sri K. ., Varghese was found not to have issued tickets to 8 passengers, travelling from Koratty to Pallikadavu who had boarded the bus at a distance of about one mile from the spot where the bus was checked. It is seen that the contention that the tickets were not issued since there was overcrowding in the bus cannot be accepted as genuine. The enquiry conducted against him is in keeping with the principles of natural justice, and I do not find any reason why the decision taken by the management should be interferred with.

10. With regard to conductor Sri E. P. Abraham, it is the case of the management that he was on leave from January, 1966 to 17-2-1966. He applied for extension of leave upto 17-2-1966, on the ground that his father was ill. On 15-2-1966 a notice is seen to have been issued to him informing him that his name will be removed from the rolls unless he joined duty on 17-2-1966. This notice was accepted by him on 19-2-1966. Another notice was issued to him on 1-3-1966 informing him that an enquiry will be conducted against him on 10-3-1966. Having accepted the notice, he failed to appear at the domestic enquiry. No written explanation was filed, and no attempt was made at the domestic enquiry to make out that Sri E. P. Abraham had stayed away from work without leave for proper or valid reasons. An enquiry was conducted in the absence of Sri E. P. Abraham, not due to any default on the part of the management in as much as it is seen that a notice intimating that the enquiry will be conducted on 10-3-1966 was issued on 1-3-1966 and was received by the conductor on 8-3-1966. I find no reason why the decision taken by the management should be interferred with.

11. In the circumstances, the dismissal of Checking Inspector Sri C. K. Sankarankutty Nair and Conductor Sri E. P. Sreedharan, based on mere suspicion, is found to be unjustified and has therefore to be set aside. I find no reason why the decision taken by the management in respect of Sri E. P. Abraham, Sri K. Divakara Menon and Sri K. P. Varghese should be interfered with. It has been represented by the learned counsel for the dismissed workmen that they are not desirous of being reinstated in service, but would be satisfied if retrenchment compensation on the basis of their service with the concern is given to them. In the result, Checking Inspector Sri Sankarankutty Nair and Conductor Sri E. P. Sreedharan will be given

retrenchment compensation at the rate of 15 days' wages for each year of completed service, in lieu of reinstatement. Admittedly Sri C. K. Sankarankutty Nair and Sri E. P. Sreedharan entered service in 1954 and 1956 respectively. Sri C. K. Sankarankutty Nair will therefore be given compensation equivalent to 8 months' salary, and conductor Sri E. P. Sreedharan will be given compensation equivalent to 7 months' salary which they were receiving at the time of their dismissal. The other three workmen Sri E. P. Abraham, Sri K. Divakara Menon and Sri K. P. Varghese are not entitled to any relief. The management will further pay Sri C. K. Sankarankutty Nair and Sri E. P. Sreedharan Rs. 50 each towards costs. An award is passed accordingly.

This award will come into force on the expiry of 30 days after its publication in the Government gazette.

M. V. A. DIAS,
Presiding Officer.

Appendix

Witnesses examined on the side of the workmen :

WW1 C. K. Sankarankutty Nair
WW2 K. P. Varghese
WW3 E. P. Abraham
WW4 E. P. Sreedharan
WW5 K. Divakara Menon.

Witness examined on the side of the Management ;

EW1 . K. S. Manikkam

Exhibits marked on the side of the Workmen :

W1 Copy of Payment of Wages Application (in P. W. A. 178/65).
W2 Memo dated 12-2-1966 issued to E. P. Abraham.

Exhibits marked on the side of the Management :

E1 Memo dated 18-1-1966 issued to C. K. Sankarankutty Nair.
E2 Explanation dated 20-1-1966 by C. K. Sankarankutty Nair.
E3 Memo dated 4-4-1966 issued to K. P. Varghese.
E4 Reply dated 6-4-1966 by K. P. Varghese.
E5 Report dated 2-4-1966 by K. P. Varghese.
E6 Postal acknowledgement relating to Ex. E7 signed by E. P. Abraham.
E7 Notice dated 1-3-1966 issued to Sri E. P. Abraham.
E8 Memo dated 18-1-1966 issued to E. P. Sreedharan.
E9 Reply dated 20-1-1966 from E. P Sreedharan.
E10 Memo dated 4-3-1966 issued to K. Divakara Menon.
E11 Reply dated 9-3-1966 from K. Divakara Menon.
E12 Series : Enquiry papers in respect of the five workmen.

Kerala Gazette No. 24 dated 16th June 1970.
PART I

GOVERNMENT OF KERALA

Labour and Social Welfare (H) Department

NOTIFICATION

No. 19656/H2/70/LSWD. *Dated, Trivandrum, 28th May* 1970.

The award of the Labour Court, Quilon in respect of the dispute between 1. Shri K. Raghavan, Vijayamandiram, Kanjiracode, Mulavana, P. O. Kundara and (2) Shri P. K. Purushothaman, Contractor, Toddy Shop No. 11, Ezhukone and their workmen represented by Kottarakara Taluk Chethu Thozhilali Union, Kottarakara received by Government on 22-5-1970 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

M. DANDAPANI,
Ex-officio Joint Secretary.

Before the Labour Court, (Kerala State) Quilon.

Camp: Quilon.

Dated this the 10th day of April, 1970.

Present:

Shri M. V. A. DIAS, B. A., B. L., M. S. I. R. (Chicago)

In

INDUSTRIAL DISPUTE No. 19/1969

Between

(1) SHRI K. RAGHAVAN,
VIJAYAMANDIRAM, KANJIRACODE, MULAVANA, P. O. KUNDARA.

(2) SHRI P. K. PURUSHOTHAMAN,
CONTRACTOR, TODDY SHOP No. 11, EZHUKONE.

And

THEIR WORKMEN

REPRESENTED BY KOTTARAKKARA TALUK CHETHU THOZHILALI UNION, KOTTARAKARA.

Representations:

Sri K. Sivadasan, Advocate, Quilon. — For *the Management.*

Sri M. R. Thankappan, Advocate, Quilon. — For *the Union.*

G. 1092

AWARD

This is an Industrial Dispute between (1) Sri. K. Raghavan, Vijayamandiram, Kanjiracode, Mulavana P. O., Kundara, (2) Shri P. K. Purushothaman, Contractor, Toddy Shop No. 11, Ezhukone; and their workmen represented by Kottarakkara Taluk Chethu Thozhilali Union, Kottarakkara over "Non-employment of 4 workers viz. N Thankappan, K. Ravindran, Somarajan and S. Balakrishnan" referred to this Court for adjudication under Section 10 (1) (c) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) by the Government of Kerala, in their Order, Labour and Social Welfare (H) Department G. O. Rt. No. 164/69/LSWD,Trivandrum, dated 28-1-1969.

2. In pursuance of notice issued, the parties put in their respective statements. Sri. K. Raghavan admittedly was the contractor of Toddy Shop No. 11 at Ezhukone for the year 1968-69. According to him the business was conducted by him only upto 18-9-1968, for the alleged reason that the workmen attached to the Shop went on an illegal strike. He defaulted payment of kist, and the Shop was reauctioned in favour of Sri. P. K. Purushothaman with effect from 19-9-1968. Sri. P. K. Purushothaman in his written objection would have us believe that all workmen who reported for duty were engaged by him when he took up the business. According to the Union, the 4 workers were denied employment.

3. However, today when the case was taken up, the learned counsel for the Union represents that the matter has been settled out of Court, and that as such the dispute is not pressed. Since the matter has been settled amicably between the parties, there is no Industrial Dispute now for adjudication before this Court. An award is passed accordingly.

This award will come into force on the expiry of 30 days after its publication in the Government Gazette.

M. V. A. DIAS,
Presiding Officer.

Kerala Gazette No. 24 dated 16th June 1970.
PART I

GOVERNMENT OF KERALA

Labour and Social Welfare (H) Department

NOTIFICATION

No. 19657/H2/70/LSWD. *Dated, Trivandrum, 28th May* 1970.

The award of the Labour Court, Quilon in respect of the dispute between Shri K. V. Mathew, Manager '18' Acre Estate, Theppupara P. O. (Via) Parakode & the field workers of the above estate represented by the President, Kunnathoor Rubber Plantation Workers' Union, Adoor received by Government on 22-5-1970 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

M. DANDAPANI,
Ex-officio Joint Secretary.

In the Labour Court, (Kerala State)
Quilon.

Dated this the 19th day of May, 1970

Present:

SHRI M. V. A. DIAS, B. A., B. L., M. S. I. R. (Chicago)

In

INDUSTRIAL DISPUTE No. 8/70

Between:

SHRI K. V. MATHEW,

MANAGER, '18' ACRE ESTATE, THEPPUPARA P. O. (VIA) PARAKODE.

And

THE FIELD WORKERS

OF THE ABOVE ESTATE REPRESENTED BY THE PRESIDENT, KUNNATHOOR RUBBER PLANTATION WORKERS' UNION, ADOOR.

Representation:

Sri R. Velappan Pillai,
Advocate, Quilon. For *the Management*

AWARD

This is an Industrial Dispute between Shri K. V. Mathew, Manager, '18' Acre Estate, Theppupara P. O. (via) Parakode and the field workers of the above Estate represented by the President, Kunnathoor Rubber Plantation

Workers' Union, Adoor over "Are the seventeen workers mentioned in the Annexure entitled for any preference for field work in the estate 1. Anandan, 2. Johny, 3. Pushpan, 4. Sivandan, 5. Baby, 6. Hussin Ghany, 7. Ayyan, 8. Vasu, 9. Chellappan Pillai, 10. Narayanan, 11. K. Kutty, 12. Rajan, 13. Podiyan, 14. G. Baby, 15. Koshy, 16. Kuttappan, 17. G. Daniel" referred to this Court for adjudication under Section 10(1)(c) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) by the Government of Kerala, in their Order, Labour and Social Welfare (H) Department, G. O. Rt. No. 106, Trivandrum Dated 17-1-1970.

2. In spite of registred disposal notice being accepted by the President of the Kunnathoor Rubber Plantation Workers' Union, Adoor, he has not cared to appear before Court or put in the claim statement. It is therefore presumed that the union is no longer interested in the matter. The Industrial Dispute therefore abates. An award is passed accordingly.

This award will come into force on the expiry of 30 days after its publication in the Government Gazette.

M. V. A. Dias,
Presiding Officer.

Kerala Gazette No. 24 dated 16th June 1970
PART I

GOVERNMENT OF KERALA

Labour & Social Welfare (H) Department

NOTIFICATION

No. 17652/H4/70/LSWD. *Dated, Trivandrum,* 19*th May* 1970.

The award of the Industrial Tribunal, Calicut in respect of the dispute between the Manager, M/s. Boots Pure Drug Company (India) Ltd., Cochin-I and their workmen represented by the General Secretary, Cochin Commercial Employees Association, Cochin I received by Government on 7-5-1970 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
M. Dandapani,
Ex-officio Joint Secretary.

Before the Court of the Industrial Tribunal, Calicut

(Saturday, the 25th day of April, Nineteen hundred and seventy)

Present :

Shri R. K. VENU NAYAR, B. A. B., L.,
Industrial Tribunal, Calicut.

INDUSTRIAL DISPUTE No. 35/67

Between

THE MANAGER,
M/s. Boots Pure Drug Company (India) Ltd., Cochin-1

And

THE GENERAL SECRETARY,
Cochin Commercial Employees' Association, Cochin-1.

Representation :

M/s. Kamath and Kamath, Advocate, Cochin-2.	For *Management.*
Sri M. P. Menon, Advocate, Ernakulam.	For *Union.*

AWARD

This industrial dispute existing between the above parties was referred to this Tribunal for adjudication by Government of Kerala as per their

G. 1019

order No. G. O. Rt. 2469/67/HLD dated 12-6-1967 of the Health and Labour (H) Department. The issues referred are the following:

1 Revision of basic pay;
2 Fitment;
3 Revision of D. A;
4 Special allowance;
5 Medical aid; and
6 Sick leave.

2. The case of the union is as follows: This management is engaged in the manufacture and sale of Medicines, drugs and other allied articles. Formerly this was functioning as a part of the world wide organisation called Boots Pure Drug Company Ltd., Nottingham, England. In the year 1965 it was converted into a public limited company in India and 60% of the shares are held by the parent concern. The Head Office is functioning in Bombay with its Branches at Madras and Cochin. The distribution and sale of drugs in Kerala State is attended to by the Cochin Office. Apart from the drugs and medicines they are also dealing in fungicides and mineral suppliments. Its office at Cochin started functioning in the year 1943.

3. This demand is now raised on behalf of the employees working at Cochin Office. There are 5 clerks and 8 subordinate staff. At the time of hearing it is stated that they have a few more hands. The wage scales have reached the maximum and as a result of it there is stagnation, at the highest level. The last revision of wages with regard to the clerks was effected in 1955 on the basis of a wage scale fixed by the management. Similar fixation was made for subordinate staff in the year 1959. The employees made an attempt in 1961 to increase their wages but by a settlement in 1962 the dearness allowance rates alone were modified and the other rates were left at the old scale. Under Issue No. 1 the union gives the existing scale and points out the hardship caused by the stagnation at the maximum. They say that the cost of living has increased and the wage rates prevalent in other establishments situated in and around Cochin have increased. They say that there are no comparable concerns because this management occupies a very high position. Even in the beginning they were paying better wages but subsequent to this fixation the other concerns have given better scale of wages and the wages in this establishment have gone down comparatively. They point out that there are a few other concerns who are paying better wages. For all these reasons they say that the wage rates have to be refixed on a higher scale. They want also fitment. Under Issue No. 3 they say that the Dearness allowance rate should also be revised in view of the increase in the cost of living. The rise in prices has been so violent that they require revision of the Dearness allowance. The last revision was effected in 1962 and thereafter the conditions have thoroughly changed. Here also they point out the increased dearness allowance rates for which they raised the demand. There are certain types of jobs attended to by the clerks and subordinate staff. The cashiers work is done by the clerk and some of them are doing the typing work also. These two types of clerks claim some special allowance for doing this work. Similarly the

subordinate staff who are attending to the work by riding cycles want cycle allowance. There are certain peons who are doing the filing and each of them want a special allowance for that. They want medical aid to be given by the management and for this they point out a number of other managements who are giving this benefit to their employees. They want better facilities for taking sick leave when they fall ill.

4. This is opposed by the management and they say that the wage scales fixed in 1959 are so elastic and it can meet the present needs also. The dearness allowance was revised in 1962 and the provisions contained therein are sufficient to meet the existing needs. It is stated that the wage scales prevalant in this establishment are very fair and it can be fonnd that it is comparable with the wage scales of similar concerns of the region. They say that they are not free to increase the price of articles because of the price control Order of the Government of India. The cost of raw materials have recently increased and the devaluation had also its own effect in increasing the prices. In addition to all these things there is the heavy excise duty also. These have redneed the margin of profits and sometimes they have to sell certain articles causing loss to them. These things resulted in lowering the profits of the company. The question of revision of wages has to be viewed only in this back ground. With regard to the other benefits asked for by the workers their case is that the allowances asked for cannot be granted and they say that the medical aid arked for also cannot be granted because of the financial incapacity. The sick leave asked for also cannot be granted. These contentions are denied by the union in the rejoinder filed by them.

The union examined WWs 1 and 2 and marked Exts. W1 to W17. The management examined MW1 and MW2 and marked Exts. M1 to M. 9

5. This witness WW1 joined this establishment in the year 1947 and at that time it was only a private limited company. In the year 1965 it was registered as a public limited company. He proves the prior settlement by which the management has agreed to give certain benefits to the employees. The last one was in the year 1962. This is marked as Ext. W4. By this settlement the management agreed to revice the D. A. rates When the period of this settlement was over they placed a fresh charter of demands. The management replied stating that there is a reorganisation resulting in the reduction in the area of operation of the Cochin Branch. Hence there is reduction in the turn over also. By this letter the management agreed to consider the question of revision of wages when there was restoration in the reduction. This witness would say that by the year 1966 that objective was achieved and again they approached the management. About the capacity of this management it is stated that they are paying better dividends to their shareholders every year. They paid maximum bonus to the workers during the past few years. The sales turn over has been on the increase. For this purpose he proves the annual reports and prospectus of this company. The comparable industries of the region which are engaged in almost the same type of industry are also referred to by this witness. The various settlements by which the other managements have agreed to pay the revised scales of wages are also produced and

marked. It is also stated by him that in the beginning for some years the wage scales of the employees of this firm was on a much better footing and by the subsequent increase granted by the other managements these scales fixed a few years back have been pushed back and the others are now paying better wage scales. In cross examination he has stated the details of the working of the other industries referred to by him as comparable to this industry. It is admitted by him that the price of raw materials have gone up consequent on the devalnation and also by the increase in the duties and taxes levied by the Government. It is also admitted by him that the price cannot be fixed voluntarily by the management because of the provisions of the Price Control Order. In some cases this management had to give up the prodnction of certain articles when they found it was not economical to manufacture and sell the same.

6. Generally he has stated abont the demands raised by the clerks and the subordinate staff. The other witness is the secretary of the union who has stated about the conditions of service and the present wage scales of other industries with which he wants this to be compared with. The facilities offered by the other managements consequent on the various settlements are also referred to by him.

7. As against this there is the evidence of MW2 the manager of the Cochin Branch of this indnstry. He proves a few documents. These documents are produced and proved to show that the prices of the various articles which they import have gone up because of the devaluation and the increase in excise duties. In some cases they had to give up the production and sale of certain articles over which they had a monopoly. Formerly they used to cater to the needs of Government. Recently other firms have also taken up the manufacture of these items. In all cases they have to fix the price as per the Drug Price Control Order of the Government of India. Some times it becomes un-economical due to the high price of articles imported. On so many occasions they had to discontinue the production. This management is not comparable with the other managements referred to by the union. The Management is a public limited company and it is not getting any sort of assistance from the parent company by way of financial aid. There is reference to another company with which he wants this to be compared with for the reason that they are also doing the same business. This is spoken to by MW1 the branch manager of Martin and Harris Limited. They are also manufacturing and selling medicines. He proves Ext. M1 the settlement wherein the details of the conditions of service of the workers of his establishment are shown. In 1967 they had given an adhoc increase. There are only 11 workers in Cochin branch of this company. When cross-examined he has stated that they have paid only bonus at the rate of one-months wages and in the year 1968 they had only paid the minimum bonus.

8. The first contention of the union is that the last revision of wages for the clerks took place in the year 1955 and for the subordinate staff in the year 1959. This is admitted by MW2 also though he would say that by Ext. W4, the 1962 agreement, the union has agreed to abide

by the former wage scales fixed in 1955 and 1959. Ext. W4 would show that the wage scales were not revised by this settlement. They have only revised the D. A. rates. So the fact remains that the last revision of wage scales of clerks and subordinates took place in the year 1955 and 1959 respectively. It is argued that the cost of living has gone up considerably after these revisions. Relying on the decision of the Supreme Court in 1962 (I) LLJ—61 the union would say that this is a fact which can be taken note of by any court of law. Ext. W7 is the statement showing the cost of living index for Ernakulam for the years 1957 to 1967. That has gone up considerably during these years. The management would say that the Dearness allowance rates being linked with the cost of living index this gap is filled up to a certain extent. As against this it is contended that the provisions in the settlement regarding the dearness allowance revision itself needs a change in view of the inadequasy of the provisions therein. More over the various industries in the region and also the employees under the State and Central Government have derived benefits of increased wage scales during this period. It is pointed out by the union that after the term specified in the settlement marked as Ext. W4 expired, the employees had brought this necessity for wage increase by letter marked as Ext. W5 to the notice of the management. At that time by letter W6 they took the contention that there is reduction in the turn over resulting from reorganisation in the jurisdiction allowed to the Cochin Office. By letter W6 the management has undertaken to consider their demands when the reduction is restored. This union would say that the management has conceded to consider their case immediately after the resterotion.

9. In W6 the reply to the charter of demands placed by the employees it is stated as follows:

> "However, we hope that it should be possible to increase sales to put Cochin turn over to the same old level; say within twoyears, when such demands could be considered."

The fact that their sale turn over has reached the former rates is spoken to by MW2. He admits that the Cochin turn over has exceeded the level mentioned in Ext. W6.

10. The management relies on the evidence of MW1. According to the union this is a struggling concern and during the year 1968 they paid only the minimum bonus to their workers. Formerly they were paying one months wages as bonus. The capital structure, the turnover and the other details regarding this firm are not made available to this court. When MW2 was asked about this he has stated that he cannot give more details about this firm. It is argued that this management which pays the maximum bonus to its workers and which pays better rates of dividends to the shareholders cannot be compared with that of a firm of the above nature. In view of the fact that the details necessary to show that it is comparable are not furnished by this management. It cannot be stated that this is comparable with the other. Even though it is not comparable it is admitted by MW1 that the last increase though on an adhoc basis was given in the year 1967, whereas the last revision of pay scales of the workers of this establishment took place in the year 1955 and 1959.

11. The further point raised by the workers is that the pay scales of so many of the clerks and subordinate staff have reached the maximum and so many of them are now at the stagnation level. Ext. W8 and W15 are the statements prepared to show this. The details mentioned in these statements are admitted by the management. From Ext. W8 it is seen that some have reached the maximum level. From Ext. W15 it is seen that 7 workers out of 15 have reached the maximum level. One of them under the existing scale received the highest salary in the year 1964 and thereafter his scale of pay is static and it cannot be stated that these employees are on the verge of retirement. Most of them are aged below 48.

12. The next aspect to be considered is the Capacity of this management to pay better wage scales. This firm started functioning in India in the year 1946. This management has got its parent concern in England and it has got international reputation. The prospectus of the company is marked as Ext. W2. Ext. W1 series (3 in number) are the annual reports of the company for the years 1965 to 1967. W17 is the Annual report for the year 1968. From Ext. W2 series it is seen that during the year 1966 they have paid dividend at the rate of 20%. In 1967 they have paid at the rate of 22%. In the year 1968 as per Ext. W17 the dividend is 22%. The Union's counsel refers to these reports to show that the net sales turn over has been on the increase. All these years they have paid the maximum bonus to their workers. Ext. W17 shows that they have got Rs. 85 lakhs as reserve fund.

13. It is argued that the company has raised very huge reserves out of the profits derived all these years and this alone shows the very prosperous nature of this company. The advocate for the management would point out that certain observations made in the balance sheet for the year 1968 marked as W17 would show that the picture is not so bright. They also refer to the observations made in the 1968 report.

> "However, as we strive for greater earnings in 1969 the difficulties that come in the way are price control, rising costs of indigenous materials and services, shortages of imported raw materials, over protective labour laws, and punitive rate of taxation-direct and indirect".

This and other such passages are shown by the counsel for th management to show that the picture is not so bright. They also point out that the balance sheets for the years 1965, 1966 and 1967 would show that the proportion of profits to the annual turn over is on the decrease.

14. In reply to these arguments the union relies on a number of passages in these documents. On page 7 of the 1967 report marked as Ext. W1 series it is seen as shown below:

> "In this context, I am glad to tell you that the Government of India have now approved of increase in retail prices of some of our present pharmaceutical products. The Government have also approved the proposed selling prices of three new products, which will be launched during the current year".

At page 11 of Ext. W17, the balance sheet for 1968 it is stated as follows:

> "However, Government control on selling prices of official products without brand names was relaxed towards the end of the year to enable the industry to charge a price commensurate with higher cost of production resulting from the continuous rise in cost elements, over which the industry has no control. This is a wise step, for it gives a chance to the industry to be its own monitor. It is hoped that this will be followed by relaxation of price control on branded products".

These observations made in the documents would show that this is an industry with sufficient prospirity and the materials supplied in this case by the parties to this dispute are not sufficient in any way to say that this is comparable with the other firm referred to by MW1, in this evidence. It is stated that there are two or three other firms also doing almost the same business. The union cites the case of such units and they say that the wage scales prevalent in these establishments are on a better footing. But here also the details or data furnished by the union are not sufficient to arrive at a conclusion that these firms referred to by the union in their evidence are comparable with this industry.

15. The management has produced and proved a number of invoices marked as Ext. M2 to M9 to prove that the price of imported articles have increased for various reasons. It has resulted in the increase in the price of articles and also by increase in the excise duty. This is in addition to the increase caused by the devaluation. But in this case the managemet has not proved the proportion of their trade which depended exclusively on the imported articles. It is admitted that the turn over is on the increase with regard to this management. In view of the fact that the management has not proved the extent of their business which depends on the imported articles no conclusion can be drawn on the basis of the increased price of articles imported.

16. In this case it has come out in evidence that the last revision of wage scales was in 1955 and 1959. Many of the employees have reached the maximum of their scales and there is stagnation. The company pays maximum bonus to its workers every year and they also pay divided at the rate of 22% to their shareholders during the last 2 years. Regarding this there is an argument that they are paying it at this rate only to attract capital. It may not be a uniform feature that a company goes on paying dividend at a higher level to attract capital. In this case they have admitted that they have paid at the rate of 22% during the last 2 years and the payment for the past years were also not at a lesser rate. So this argument cannot be accepted. The management has not pointed out the case of any other firm doing the same business and paying the same rate of dividend anywhere in this area. As already stated the wage scales have reached the stagnation stage and the last revision took place some 10 years back. Even in the case of one firm with which the management wanted to be compared with the last revision of wage scales giving an adhoc increase took place in 1967.

Hence I find that the wage scales in this case should be revised to give increased scales of wages to the employees. Therefore the wage scales are fixed as below:

Clerical Rs. 90-8-130-12.50-230-15-350.
Subordinate Staff: Rs. 40-2.50-55-3-70-5-90.
Drivers Rs. 55-2-65-3-80-EB-3-107.

Fitment

17. The demand for the revision of wages was made by the Union in the year 1966 and it has taken all these years to arrive at a decision about the demand made. This award is to take effect only from the date of this award. In view of these facts I find that the management shall give the fitment in the following manner.

The pay of an employee in the revised scale of pay shall be fixed at the stage in the revised scale next above his present pay whether it represents a stage in the revised scale or not and shall give one more increment.

Revision of D. A.

18. The existing dearness allowance scale is found to be sufficient to meet the situation arising out of the increase in the cost of living. Hence I find that the exisiting system shall continue.

Special Allowance

It is claimed that certain employees are doing special types of work like that of cashier and accountant. The evidence adduced in this case is not sufficient to conclude that the volume of work done as a special work warrants the payment of special allowance. The same holds goods with regard to those who claim cycle allowance. Hence no relief is granted under this issue.

Medical aid

20. The case of the union is that the employees of this concern are not getting any medical aid at all. The other establishments in this area are giving such benefits to their employees. So they want this management also to meet all the medical expenses incurred by the employees who are sick. They want this benefit to be extended to the dependants also. The management says that similarly placed concerns are not giving benefits of this type in this region and if it is to be ordered to be given by this establishment alone it will cause industrial unrest.

21. There are a few agreements produced in this court on behalf of the union. It is not for a moment taken for granted that they are comparable with this establishment. But some of these concerns which are situated in this region have made provisions for giving medical benefits to their employees. So the contention of the management that it will cause industrial unrest cannot hold good. This is a concern engaged in the production and distribution of medicine and allied products. So I find that this management shall provide medical benefits on the following basis.

The company shall make arrangements for giving free medical attention to the employees who are sick and the cost of medicines prescribed by the Doctor shall be borne by the company. All expenses recommended and certified by the Company's Doctor or by the authorised indigenous medical practitioner approved by the company shall be met by the company.

Sick leave

22. The demand of the Union is for giving one months leave with full pay and allowances and thereafter two months leave with half pay and allowances in case of employees who have exhausted all categories of leave in case of prolonged sickness. They say that this company can afford such benefits to their workers. The management opposes this demand on the ground that they cannot afford to grant further leave. The union has not pointed out similar instances wherein the employees are given such additional benefits. In view of this it is held that they are entitled to get only what they are now getting as sick leave.

I pass this award as stated above and this award shall come into force on the expiry of 30 days after its publication in the Government Gazette.

Calicut,
25-4-1970.

R. K. Venu Nayar,
Industrial Tribunal, Calicut.

APPENDIX

Exhibits marked on the side of the Union.

- W 1. (Series 1 to 3) Report and accounts for the years ended 31-12-1965 to 31-12-1967.
- W 2. Printed prospectus of the company issued on 4-12-1965.
- W 3. (Series 4 Nos.) Statements showing nett receipts from sales for the months of December, 1964 to December, 1967.
- W 4. Memorandum of settlement dated 6-[illegible]-1962.
- W 5. Memorandum of demands dated 7-7-1965.
- W 6. Managements' letter dt. 15-9-1965 to the Association.
- W 7. Statement showing cost of living index for Ernakulam area for the period from 1961 to 1967.
- W 8. Statement showing names, emoluments, etc. of employees at Cochin for September, 1967.
- W 9. (Series 1 to 8) Copy of Memoranda of settlements arrived at between this Association and various other managements.
- W10. Comparative statement regarding dearness allowance.
- W11. Comparative statement showing dearness allowance in M/s. Parry & Company Ltd. and in this management.
- W12. Comparative statement showing pay scales etc. in M/s. Forbes Ewart & Figgis (P) Ltd., Carrit Moran & Co. (P) Ltd. and Voltas Ltd.
- W13. Comparative statement showing pay scales in M/s. Parry & Co. Ltd. and this management.

W14. Statement showing profits earned and dividends declared, etc., by M/s. Voltas Ltd. for the last 5 years.
W15. List of staff of Boots Purge Drug Co. (India) Ltd., Cochin with their basic pay for August, 1968.
W16. Letter dt. 20-10-1969 from the management to the Union regarding the charter of demands.
W17. Annual accounts of the management for the year 1968.

Exhibits marked on the side of management.

M 1. Statement of scales of pay and other service conditions of M/s Martin & Harris (Private) Ltd., Ernakulam, Cochin-11.
M 2. Invoice dt. 31-12-1964 relating to puchase of pancreas Glands from M/s. Roth Products Inc., Philadalphia.
M 3. Do. 20-9-1967 do. do.
M 4. Invoice dt. 14-9-1962 relating to purchase of sulphathiazole powder from M/s. Chemapol, Praha.
M 5. Invoice dt. 31-10-1966 relating to purchase of Sulphathiasole powder from M/s. Karl O'Helm, Hamberg.
M 6. Invoice dt. 11-12-1964 relating to purchase of Sulphaguanidine powder from M/s. Chemapol, Praha.
M 7. Invoice dt. 10-2-1967 relating to purchase of Sulphaganindine powder from M/s. Karl O'Helm, Hamburg.
M 8. Invoice dt. 29-10-19.4 relating to purchase of Diloxenile furoate from M/s. Boots Purge Drug Co. Ltd., Nottingham.
M 9. Do. 30-6-1967 do. do.

Witnesses examined on the side of the Union.

WW1 K. Narayana Menon.
WW2 P. K. Chakrapani.

Witnesses examined on the side of management.

MW1 K. Sathyanathan.
MW2 P. T. Govindan.

Kerala Gazette No. 24 dated 16th June 1970.
PART I

GOVERNMENT OF KERALA

Labour and Social Welfare (H) Department

NOTIFICATION

No. 17633/H3/70/LSWD. *Dated, Trivandrum, 16th May* 1970.

The award of the Industrial Tribunal, Calicut in respect of the dispute between the Management of Malabar Metals and Alloys Private Ltd., Chelari, Thenhipalam P. O., Tirur Taluk and their workmen represented by the Malabar Metals and Alloys Workers' Union, Chelari, Thenhipalam P. O., Tirur Taluk received by Government on 7-5-1970 is hereby published under section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

M. Dandapani,
Ex-Officio Joint Secretary

Before the Court of the Industrial Tribunal, Calicut

(Thursday, the 23rd day of April, Nineteen hundred and seventy)

Present:

Shri R. K. VENU NAYAR, B. A., B. L.,
Industrial Tribunal, Calicut.

INDUSTRIAL DISPUTE No. 61/68.

Between

THE MANAGEMENT

OF MALABAR METALS AND ALLOYS PRIVATE LTD., CHELARI,
THENHIPALAM P. O., TIRUR TALUK

And

MALABAR METALS AND ALLOYS WORKERS' UNION,
CHELARI, THENHIPALAM P. O., TIRUR TALUK

Representation:

Shri S. Krishnan,
Advocate,
Calicut } For *Management*.

Shri K. Bhaskaran Nair,
Advocate,
Calicut. } For *Union*

AWARD

The industrial dispute existing between the above parties was referred to this Tribunal for adjudication by the Government of Kerala as per their

Order No. G. O. Rt. 930/68/LSWD. dated 25-11-1968. The only issue referred is the following:

"Bonus for the years 1966 and 1967.

2. The union claims bonus for the years 1966-67 and 1967-68 on the ground that the management has made sufficient profits to justify the payment of bonus. The union has demanded for payment of bonus and a few conciliation conferences were also held. But the management took part only in one or two of these conferences and did not come to a settlement. It is stated that the balance sheet and profit and loss account were not made available for the union for perusal and so they reserve their right to comment upon it after getting the same.

3. The first contention of the management is that they started production in the factory only on 1-1-1965 and so far they have not made any profit. According to the audited balance-sheets and profit and loss account of these years they have been incurring loss and during the year ended 30-6-196· they have incurred a loss of Rs. 1,055·18. These have been accepted by the Income Tax Authorities and so they say that they are not liable to pay any bonus to their workers under the provisions of the Payment of Bonus Act. This was made clear to the union even at the very outset.

4. This contention raised by the management is denied by the Union in their rejoinder. The union has examined WW1 a worker employed there and he would say that the company is making good profits but in cross-examination he has stated that he has not perused any of the accounts of the company. The union has filed a work-sheet also and in preparing this they rely on the entries made in the balance sheet and profit and loss account produced by the management. They are marked as Ext. M1 series. Ext. M2 is the assessment order of the Income Tax Department. MW1 has stated that they started production only in 1965 and all these years they have been incurring loss continuously. The balance sheet for the years 1964-65 to 1967-68 are marked as Ext. M1 series (4 in number). He would say that these have been approved by the Income Tax Department and that is seen from Ext. M2. In cross-examination he gives clarification about certain entries made in the balance sheet and profit and loss account. During the year 1965-66 the Managing Director has appropriated a monthly salary of Rs. 500 and himself as Director has appropriated Rs. 400 per month. In addition to this these two office bearers have appropriated a sum of Rs. 7,095·50 towards travelling allowance. These are the only two directors and during the same period they have appropriated Rs. 1,100 under the Head of Directors' sitting fee. Such details about the other entries made in these documents are also given by this witness in cross-examination. In the Directors' report to the shareholders for the year 1966-67 it is stated as follows regarding the loss incurred by them.

> "There is a net loss of Rs. 2,395·63 for the year. The loss is mainly due to charging of depreciation amounting to Rs. 36,247·83 and provision of development rebate amounting to Rs. 500 and also due to payment of interest on borrowals etc. If these items are

eliminated, the working has shown a better position compared with the general trend of this business. The directors are hopeful of getting better profit during the subsequent years."

In the report submitted to the shareholders by the Directors during the annual general body meeting during the year 1967-68 it is stated as follows:

> "But, there is a net loss of Rs. 1,055·18 for the year. The loss is mainly due to charging of depreciation amounting to Rs. 35,006 04 and provision for developmrnt rebate reserve Rs. 601 and also due to payment of Rs. 41,322·35 being interest on borrowals etc. If these items are eliminated, the working has shown a better position comparing to the general trend of this business. The directors are hopeful of getting brtter profit during the subsequent years."

In these two reports it is pointed out by the Board of Directors that the loss is mainly due to charging of depreciation by a total of Rs. 71,253·87. In addition to these they have paid a total interest of Rs. 81,583·32 during these two years. Even the Directors in their report have expressed a feeling that this amount should be eliminated to see the correct position of the general condition of this business. There is a statement filed by the union after recording the evidenre of MW1. In this statement they say that a number of items are to be added back.

5. MW1 has admitted that the buildings are all owned by the company and that no rent has to be paid. But during these two years it is shown that they have spent an amount of Rs. 1,650 towards rent. It is stated that this has to be added back. Under the head of wages there is an entry for the year 1967-68 at Rs. 95,987·84 and for the year 1966-67 at Rs. 96,949·00 and on the same page there is another head also as salary and wages. There they have shown that they have spent Rs. 25,116·00 during the year 1966 67 and Rs. 16,920·44 during the year 1967-68. If the first entry for wages includes all the expenditure under the head of wages then there is no reason why they should again make an entry under the head of wages and salaries. It need be only salaries. The evidence of MW1 has not clarified this aspect. MW1 says that one particular entry made in the year 1965 66 under the head wages include all the wages paid as wages. The claim for maintenance of jeep made at the rate of Rs. 13,717 for the year 1966-67 and Rs. 15,670·35 for the year 1967-68 is stated to be exhorbitant by the union. In the same way they attack the expenses under the head of travelling expenses of Directors during these years. With regard to these items it may not be possible for this court to say what should be the proper amounts to be spent by the management. The union has only stated that this is exhorbitant. They have not set up a case that the management has not actually incurred these expenses. There is no case that these are sham entries made for the purpose of defeating the claim for bonus by the workers. So thrse two items i.e. rxpenses for maintaining a jeep and the travelling expenses incurred by the directors cannot in any way be added back.

6. The management has not given clear explanations for the over laping of certain items of expenditure. When they have exhaustively entered all the wages under the head of wages they need not have made entries under

another head as wages and salaries. If they had sufficient explanation then they could have given that. MW1 has stated that in this balance sheet the items under different heads are shown separately. They have also not specified the amount paid by way of salaries though they say this amount includes some amount paid to the director by way of his salary. But what was the salary portion for the staff is not made clear.

7. There is no explanation for this over laping. If the first amount represents wages on the whole then there is no necessity for some more amount to be included under the head of wages and salaries. The second entry need only come under the head of salaries to the staff or other persons. There is no reasonable explanation also offered by the Director when he gave evidence. There after also they have not produced the relevant records to explain this. As already stated they have created an impression that the whole depreciation shown in their accounts need not be taken in o consideration when judging the profitability of the concern This is the gist of the report submitted by them at the annual general body meeting. They have not made clear about the various amounts for which they have claimed depreciation. All these facts would suggest that the case of the management that they have not made any profits during these years cannot be accepted. Even according to them the loss sustained has to be viewed in the background of the provision for depreciation. On this basis I find that this management has not incurred any loss during these years and they have made sufficient profits for payment of bonus. So their argument that no bonus need be paid under the Payment of Bonus Act cannot be accepted. They have made profits during these two years. The exact amount of profit that can be taken as the basis for arriving at the calculation for the quantum available as surplus is not clear. So it is held that the management shall pay the minimum bonus prescribed in the Bonus Act during these years ended on 30-6-1967 and 30-6-1968 as bonus to their employees.

I pass this award as stated above and this award shall come into force on the expiry of 30 days after its publication in the Government Gazette.

Calicut,
23-4-1970.

R. K. Venu Nayar,
Industrial Tribunal, Calicut.

APPENDIX

Exts. marked on the side of the Management

M1. Series (1) Balance sheet and profit and loss account for the year ended 30-6-1965.

	(2)	Do.	30-6-1966.
	(3)	Do.	30-6-1967.
	(4)	Do.	30-6-1968.

M2. Copy of Income-tax assessment order for the year 1968-69.

Witness examined on the side of the Union

WW1. Sekharan.

Witness examined on the side of the management

MW1. Aziz Kunju

Kerala Gazette No. 24 dated 16th June 1970.
PART I Section 1

GOVERNMENT OF KERALA

Law Department

NOTIFICATION

No. 5923-1/B2/70/Law. *Dated, Trivandrum, 1st June* 1970.

The following Act of Parliament, published in the Gazette of India Extraordinary, Part II—Section 1, dated the 31st March. 1970, is hereby republished for general information. The Bill as passed by the Houses of Parliament received the assent of the President on the 31st March 1970.

By order of the Governor,
P. Sankunni Menon,
Law Secretary.

THE CALCUTTA PORT (AMENDMENT) ACT, 1970
(Act No. 15 of 1970)

An

ACT

Further to amend the Calcutta Port Act, 1890.

Be it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Calcutta Port (Amendment) Act, 1970.

2. *Insertion of new section 35-A in Bengal Act 3 of* 1890. — In the Calcutta Port Act, 1890 (hereinafter referred to as the principal Act), after section 35, the following section shall be inserted, namely:—

"35A. *Power of Commissioners to undertake certain works.* — The Commissioners may undertake to carry out on behalf of any person (including any State Government) any works or services or any class of works or services on such terms and conditions as may be agreed upon between the Commissioners and such person".

3. *Amendment of section* 37.—In section 37 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:

"(3) Nothing in this section shall apply to any work referred to in section 35A.".

4. *Repeal and saving.*—(1) The Calcutta Port (Amendment) Ordinance, 1970 (2 of 1970), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act as if this Act had come into force on the 2nd day of February, 1970.

GOVERNMENT OF KERALA

Public (Political and Military B) Department

NOTIFICATION

No. 66381/PM. B4/69/PD. *Dated, Trivandrum,* 30*th May* 1970.

The following resolution of the Government of India together with the corrigendum regarding the reconstitution of State Advisory Committee for Territorial Army of this State is republished in the Gazette for general information.

By order of the Governor,
C. P. Ramakrishna Pillai,
Joint Secretary.

RESOLUTION.

No. 626 dated 26th February 1970— To advise the Government of India on matters relating to the development of the Territorial Army in the State of Kerala, the President has been pleased to direct that the State Advisory Committee for the Territorial Army be reconstituted.

The Committee shall consist of:—

Chairman.

Shri C. Achutha Menon, Chief Minister, Kerala.

Official Members:—

1. General Officer Commanding, Madras, Mysore & Kerala Area.
2. Special Secretary to Government of Kerala, Public Department.
3. Inspector General of Police, Kerala.
4. Director of Employment, Kerala.
5. Commander, Territorial Army Group Headquarters, Southern Command, Poona.
6. Commander, Madras & Kerala Sub Area.

Non-Official Members:—

1. President or representative of Indian Chamber of Commerce, Cochin-2.
2. Lt. Col. P. P. V. Nair, 'Sivalayam', Kannanmoola, Trivandrum.
3. Shri C. V. Balakrishnan Nair, Manager, Parvathi Mills Limited, Quilon.
4. Shri John P. Chacko (Ex-serviceman) Valliaparambil House, Lakassery, Chengannur.
5. Shri C. T. John, District Commandant, Home Guards, Kottayam.
6. Dr. Chathuruthy, M. G. Road, Ernakulam.
7. Shri N. R. Srinivasa Iyer, B. A. B. L., I. P. S. (Retd.), Krishnavilas, Thiruvambady, Trichur-1.

Non-Official Members:—

8. Major C. K. Nair, Sai Nilayam, Tholanur, Alathur.
9. Shri K. Mammi Hajee, B. A., Kainikkara House, Tirur-P. O., Malappuram.
10. Shri H. Manjunatha Rao, Ex-Mayor, 1/668 East Hill Road, Calicut.
11. Dr. K. A. Shetty, Kasargod.

Secretary.

General Staff Officer-2, Territorial Army Group Head-quarters, Southern Command, Poona.

3. The tenure of appointment of non-Official members of the Committee is two years.
4. The functions of the committee will be (i) to encourage recruitment to the Territorial Army and (ii) to consider any local problem relating to recruitment, development and training of the Territorial Army.
5. The non-official members will be paid travelling allowance and daily allowance for attending the meetings at the rates sanctioned in the Ministry of Finance, Office Memorandum No. F. 6 (26)-H. IV/59. dated the 5th September, 1960 as amended from time to time.
6. Ordered that the foregoing be communicated to the Chief of the Army Staff, Financial Adviser, Ministry of Finance (Defence) and the Chief Secretary to the Government of Kerala.
7. Ministry of Defence Notification No. 3232, dated 23-11-1967, published in the Gazette of India. Part I, Section 3, dated 9th December 1967 (Agrahayana 18, 1889) is hereby cancelled.
8. Ordered that the Resolution be published in Gazette of India.

(Sd.)

K. R. BALIGA,

Deputy Secretary (G).

CORRIGENDUM

No. 27(6)/69/D(GS-III) *Dated, May,* 1970.

Ministry of Defence Notification No. 626 dated 21st February 1970, published in the Gazette of India, Part I, Section 3, dated the 14th March 1970 (Phalguna 23, 1891), regarding constitution of the State Advisory Committee for the Territorial Army in the State of Kerala is amended as under:

Under the heading 'Non-official Members'

For '8. Major C. K. Nair, Sai Nilayam, Tholanur, Alathur.

Read '8. Dr. K. R. Nair, Ottappalam.'

(Sd.)

GANESH SWARUP,

Under Secretary.

Kerala Gazette No. 24 dated 16th June 1970;
PART I Section iii

കേരളാ ഗവണ്മെന്റ്

ലാ ഡിപ്പാർട്ടുമെന്റ്

പരസ്യം

നമ്പർ 2317/ബി 1/69/ലാ. തിരുവനന്തപുരം, 1969 മാർച്ച് 6/
1890 ഫാൽഗുനം 15.

കേരള സംസ്ഥാന നിയമസഭ പാസ്സാക്കിയ താഴെപ്പറയുന്ന ആക്ട് പൊതുജനങ്ങളുടെ അറിവിനായി ഇതിനാൽ പ്രസിദ്ധപ്പെടുത്തുന്നു. നിയമസഭ പാസ്സാക്കിയ പ്രകാരമുള്ള ബില്ലിന്, 1969 മാർച്ച് 6-ാം തീയതി ഗവർണ്ണരുടെ അനുമതി ലഭിക്കുകയുണ്ടായി.

ഗവർണ്ണരുടെ ഉത്തരവുപ്രകാരം,
പി. ശങ്കുണ്ണിമേനോൻ,
അഡീഷണൽ ലാ സെക്രട്ടറി.

1969-ലെ 10-ാം ആക്ട്

1969-ലെ കേരള ധനവിനിയോഗ (2-ാം നമ്പർ) ആക്ട്

1968-69 സാമ്പത്തിക വർഷത്തേയ്ക്ക് ഉപയോഗിക്കുന്നതിനായി കേരള സംസ്ഥാന സഞ്ചിത നിധിയിൽ നിന്നും, വീണ്ടും തുകകൾ കൊടുക്കുന്നതിനും, വിനിയോഗിക്കുന്നതിനും അധികാരപ്പെടുത്തുന്ന ഒരു ആക്ട്.

പീഠിക:—1968-69 സാമ്പത്തിക വർഷത്തേയ്ക്ക് ഉപയോഗിക്കുന്നതിനായി കേരള സംസ്ഥാന സഞ്ചിത നിധിയിൽ നിന്നും വീണ്ടും തുകകൾ കൊടുക്കുകയും, വിനിയോഗിക്കുകയും ചെയ്യുന്നതിന് അധികാരപ്പെടുത്തേണ്ടത് ആവശ്യമായിരിക്കയാൽ,

ഇൻഡ്യൻ റിപ്പബ്ലിക്കിന്റെ ഇരുപതാം സംവത്സരത്തിൽ താഴെപ്പറയും പ്രകാരം നിയമമുണ്ടാക്കുന്നു:—

1. ചുരുക്കപ്പേര്:—ഈ ആക്ടിന്, 1969-ലെ കേരള ധനവിനിയോഗ (2-ാം നമ്പർ) ആക്ട് എന്ന പേർ പറയാം.

2. 1968-69 സാമ്പത്തിക വർഷത്തേക്ക് കേരള സംസ്ഥാന സഞ്ചിതനിധിയിൽ നിന്നും 7,91,11,100 രൂപാ കൊടുക്കൽ:—

പട്ടികയിൽ (3)-ാം കള്ളിയിൽ വ്യവസ്ഥിച്ചിരിക്കുന്നതിൽ കവിയാത്ത തുകകൾ, മൊത്തത്തിൽ ഏഴു കോടി, തൊണ്ണൂറ്റി ഒന്നു ലക്ഷത്തി, പതിനൊരായിരത്തി ഒരു നൂറ് രൂപ, 1968-69 സാമ്പത്തിക വർഷത്തിൽ, പട്ടികയുടെ (2)-ാം കള്ളിയിൽ പ്രത്യേകം പറഞ്ഞിരിക്കുന്ന സർവ്വീസുകളെ സംബന്ധിച്ച് വിവിധ ചാർജ്ജുകൾക്കായി വിനിയോഗിക്കുന്നതിന്, കേരളസംസ്ഥാന സഞ്ചിതനിധിയിൽനിന്നും, കൊടുക്കുകയും, വിനിയോഗിക്കുകയും ചെയ്യാവുന്നതാകുന്നു.

3. വിനിയോഗം.—ഈ ആക്ടുമൂലം, കേരള സംസ്ഥാന സഞ്ചിതനിധിയിൽ നിന്നും, കൊടുക്കുന്നതിനും, വിനിയോഗിക്കുന്നതിനും അധികാരപ്പെടുത്തിയ തുകകൾ, മേല്പറഞ്ഞ വർഷത്തെ സംബന്ധിച്ചിടത്തോളം, പട്ടികയിൽ പറഞ്ഞിരിക്കുന്ന സർവ്വീസുകൾക്കും ആവശ്യങ്ങൾക്കും വേണ്ടി വിനിയോഗിക്കേണ്ടതാണ്.

പട്ടിക

(2-ം, 3-ം വകുപ്പുകൾ നോക്കുക)

വോട്ടിന്റെ നമ്പർ	സർവ്വീസുകളും കാര്യങ്ങളും	നിയമസഭ വോട്ടുചെയ്യുന്നത്	സഞ്ചിതനിധിയിന്മേൽ ചുമത്തിയത്	ആകെ
		കവിയാത്ത തുക		
(1)	(2)	(3)		(4)
		രൂപ	രൂപ	രൂപ
	എ. റവന്യൂ അക്കൗണ്ട്			
I	കാർഷികാദായ നികുതിയും വില്പന നികുതിയും	32,600	..	32,600
II	ഭൂനികുതി	9,81,200	..	9,81,200
IV	വാഹനനികുതി	30,000	4,000	34,000
VI	രജിസ്ട്രേഷൻ ഫീസ്	1,44,500	..	1,44,000
IX	സംസ്ഥാന തലവന്മാരും മന്ത്രിമാരും, ഹെഡ്ക്വാർട്ടേഴ്സ് ഉദ്യോഗസ്ഥന്മാരും	26,82,000	17,000	26,83,700
X	ജില്ലാഭരണവും പലവകയും	22,60,000	..	22,60,500
XI	നീതിന്യായനിർവ്വഹണം	1,34,000	87,100	2,21,100
XII	ജയിലുകൾ	3,50,000	..	3,50,000
XIII	പോലീസ്	80,000	..	80,000
XVI	സർവ്വകലാശാലാ വിദ്യാഭ്യാസം	100	..	100
XVII	പൊതുവിദ്യാഭ്യാസം	2,43,00,000	..	2,43,00,000
XIX	വൈദ്യം	4,36,100	..	4,36,100
XXII	കൃഷി	100	..	100
XXIII	ഫിഷറീസ്	43,40,000	600	43,40,600
XXV	മൃഗപരിപാലനം	13,95,500	..	13,95,500
XXIX	തൊഴിലാളികളും തൊഴിലും	1,75,900	..	1,75,900
XXXI	സ്ഥിതിവിവരക്കണക്കും പലവകയും	3,07,000	..	3,07,000

		രൂപ	രൂപ	രൂപ
XXXII	ജലസേചനം	41,96,600	300	41,96,900
XXXIII	പൊതുമരാമത്തുകൾ	1,68,30,000	86,900	1,69,16,900
XXXIV	തുറമുഖങ്ങൾ	1,69,200	..	1,69,200
XXXV	ട്രാൻസ്പോർട്ട പദ്ധതികൾ	4,35,000	..	4,35,000
XXXVI	ക്ഷാമം	8,00,000	..	8,00,000
XXXVIII	ലേഖനസാമഗ്രികളും, അച്ചടിയും	8,00,000	..	8,00,000
XXXIX	ദാനം	25,23,700	..	25,23,700
XL	പലവക	9,99,100	18,900	10,18,000
ബി.	റവന്യൂകണക്കിനു വെളിയിലുള്ള മൂലധനച്ചെലവുകൾ			
XLV	വ്യാവസായികവും, സാമ്പത്തികവുമായ വികസനം സംബന്ധിച്ച മൂലധനച്ചെലവ്	200	46,000	46,200
XLIV	ജലസേചനം സംബന്ധിച്ച മൂലധനച്ചെലവ്	100	1,15,300	1,15,400
XLVII	പൊതുമരാമത്തുകൾ സംബന്ധിച്ച മൂലധനച്ചെലവ്	2,900	..	2,900
XLVIII	മററു പണികൾ സംബന്ധിച്ച മൂലധനച്ചെലവ്	100	..	100
LII	പെൻഷൻ കമ്യൂട്ട ചെയ്യുന്നതിന്റെ വില	17,00,000	..	17,00,000
സി,	വായ്പകളും, മുൻകൂറുകളും, വിതരണവും, കടം വീട്ടലും			
LV	ഗവണ്മെന്റ് നൽകുന്ന വായ്പകളും, മുൻകൂറുകളും	1,26,44,400	..	1,26,44,400
	ആകെ	7,87,50,300	3,60,800	7,91,11,100

(A true translation)

A. P. Perumal,
Head Translator-in-Charge.

Kerala Gazette No. 24 dated 16th June 1970.
PART I Section iv

GOVERNMENT OF KERALA

Public (Services-C) Department

NOTIFICATION

G.O. (P) No. 182/70/PD. *Dated, Trivandrum, 2nd June* 1970.

S. R. O. No 236/70.—In exercise of the powers conferred by sub-section (1) of Section 2 of the Kerala Public Services Act, 1968 (19 of 1968) read with section 3 thereof, the Government of Kerala hereby make the following amendments to the Special Rules for the Kerala Secretariat Subordinate Service published under G. O. (P) 208/PD. (Rules) dated the 5th July, 1967, in Part I of the Kerala Gazette No. 27 dated the 11th July, 1967 namely:—

AMENDMENTS

In the said Rules:—

(i) in rule 8, after the existing proviso the following proviso shall be inserted, namely:—

"Provided further that candidates possessing the qualification of Malayalam Typewriting K. G. T. E. (Lower) or any equivalent qualification shall be given age relaxation upto five years for recruitment to the post of English Typists, along with the usual age relaxation available to the candidates belonging to the Scheduled Castes, Scheduled Tribes and Other Backward Classes".

(ii) in the Table under rule 9, after the entries in column (3) under the heading "Qualification" against the category 12 (a) "Lower Division Typists (English)" the following entry shall be inserted, namely:—

"(iii) A pass in Malayalam Typewriting K. G. T. E. (Lower) or any equivalent qualification".

By order of the Governor,

G. BHASKARAN NAIR,
Special Secretary.

G. 1098.

Kerala Gazette No. 24 dated 16th June 1970.
PART I Section iv

GOVERNMENT OF KERALA

Abstract

RULES—KERALA SERVICE RULES—RULES 24, 96-A, 140 AND 144 PART I AMENDMENTS ISSUED

FINANCE DEPARTMENT

G. O. (P) No. 254/70/Fin. Dated, Trivandrum, 27th April, 1970.

Read:—1. G. O. (P) 535/66/Fin. dated 17-12-1966.

2. G. O. (P) 485/67/Fin. dated 4-11-1967.

3. Office Memorandum No. F. 16 (3)-E. IV (A)/67 dated 5-2-1968 from the Government of India, Ministry of Finance, Department of Expenditure.

4. Letter No. TMVIII/10-56/Vol. III/36/605 dated 26-5-1969 from the Controller of Accounts, Kerala.

ORDER

Fundamental Rule 18 (2) and Rule 5 (2) of the revised leave rules 1933 of the Government of India provide that where a Government servant does not resume duty after remaining on leave for a continuous period of five years, or where a Government servant after the expiry of his leave remains absent from duty, otherwise than on foreign service or on account of suspension, for any period which together with the period of leave granted to him exceeds five years, he shall unless the President in view of the exceptional circumstances of the case otherwise determines, be deemed to have resigned and shall accordingly cease to be in Government employ. The Supreme Court has held that such automatic termination of service (by deeming a Government servant to have resigned his appointment in the event of absence for a period exceeding five years) amounts to removal from service without giving the official concerned an opportunity to show cause against the action of removal and, as such, is ultra vires of Article 311 (2) of the Constitution In view of the decision of the Supreme Court, the rules have been amended to the effect that the official concerned shall be removed from service after following the procedure laid down in the Central Civil Services (Classification, Control and Appeal) Rules 1965. Rules 24 and 96-A, Part I, Kerala

G. 939

Service Rules similarly provide for automatic termination of the services of a Government servant on the happening of the contingencies mentioned therein. In the light of the Supreme Court judgment these rules require amendment. Similarly the orders in G. O. (P) 535/66/Fin. dated 17-12-1966 (as modified in G. O (P) 485/67/Fin. dated 4-11-1967 necessitate amendments to rule 24, 140 and Note 3 below Rule 144, Part I, Kerala Service Rules. In the circumstances Government pleased to issue the following Notification.

NOTIFICATION

S. R. O. No.237/70. In exercise of the powers conferred by sub-section (1) of Section 2 of the Karala Public Services Act, 1968 (19 of 1968) read with section 3 thereof, the Government of Kerala hereby make the following amendments to the Kerala Service Rules, namely:—

AMENDMENTS

C. S. No. 191/70 *dated* 27-4 1970

In Part I of the said Rules—

(1) for rule 24, the following rule shall be substituted, namely:—

"24. Unless the Government in view of the special circumstances of the case, otherwise determine, after five years' continuous absence from duty, an officer shall be removed from service after following the procedure laid down in the Kerala Civil Services (Classification, Control and Appeal) Rules, 1960";

(2) in rule 96 A, for the words "be deemed to have resigned his appointment and shall accordingly cease to be in Government employ", the following words and figures shall be substituted, namely:—

"be removed from service after following the procedure laid down in the Kerala Civil Services (Classification, Control and Appeal) Rules 1960";

(3) in clause (b) of rule 140, the following shall be inserted at the end, namely:—

"No officer shall normally be allowed to remain on deputation to foreign service for more than five years continuously. Provisions of rule 24 will apply to an officer who continues in foreign service for more than five years at a time"

(4) in rule 144, for note 3, the following note shall be substituted, namely:—

"*Note* 3. The pay given to an officer in foreign service shall not exceed his basic pay in Government service by more than 20% thereof or Rs. 300, whichever is less, in all cases where the headquarters of the officer is located within Kerala".

In cases where the headquarters of the Officer is outside Kerala and the deputation is to institutions, bodies aided by Government industrial undertakings in which Government hold majority of shares and also undertakings which are managed by Government, the deputationist's pay in foreign

service shall not exceed his basic pay in Government service by more than 50% or Rs. 300 whichever is less".

The amendment No. (3) and the second paragraph in amendment No. (4) shall be deemed to have come into force with effect from 17-12-1966 and the first paragraph in amendment No. (4) shall be deemed to have come into force with effect from 4-11-1967.

By order of the Governor,
P. VELAYUDHAN NAIR,
Secretary.

To

The Controller of Accounts, Kerala.
All Heads of Departments and Offices.
All Departments and Sections of the Secretariat.
The Secretary, Public Service Commission (with C. L.)
The Secretary Vigilance Commission (")
The Registrar, High Court of Kerala (")
The Registrar, University of Kerala (")
The Registrar, University of Calicut (")
All Officers of the Secretariat.
The Secretary to Governor.
The Private Secretary to Chief Minister and other Ministers.
The Secretary to the Kerala State Electricity Board (with C. L.)

Kerala Gazette No. 24 dated 16th June 1970.

PART I Section iv

GOVERNMENT OF KERALA

Public Works (Transport-B) Department

NOTIFICATION

G. O. (P) No. 71/70/PW. *Dated, Trivandrum, 29th April* 1970.

S. R. O. No. 238/70.—In exercise of the powers conferred by Sub-section (1) and clause (c) of Sub-section (2) of Section 41 of the Motor Vehicles Act, 1939 (Central Act 4 of 1939), Government of Kerala hereby make the following amendments to the Kerala Motor Vehicles Rules, 1961, the same having been previously published as required by sub-section (1) of section 133 of the said Act, namely:—

AMENDMENTS

In sub-rule (4) of rule 113 of the said Rules,—

(i) for the heading "Issue of duplicate registration certificate for default of owner" the following shall be substituted, namely:—
"Issue of fresh Registration Certificate for default of owner—"

(ii) for the words "and issue a duplicate certificate of registration" the words "and issue a fresh certificate of registration in the name of the party to the agreement of hire purchase, after realising the fee prescribed for endorsing transfer of ownership prescribed in sub-rule (3) of rule 129" shall be substituted.

By order of the Governor,

R. GOPALASWAMY,
Secretary.

Explanatory Note

(This is not part of the amendment, but is intended to make out the main purpose).

Under sub-section (19) of section (2) of the Motor Vehicles Act, 'Owner' in relation to a motor vehicle which is the subject of a hire-purchase agreement, means the person in possession of the vehicle under that agreement. It is in this sense the word 'owner' is used in sub rule (4) of Rule 113 of the Kerala Motor Vehicles Rules. Where, therefore, the owner-purchaser who is having possession of the vehicle under the hire purchase agreement defaults and the vehicle is seized by the seller company under the provisions of agreement, and becomes, therefore, the 'owner' in respect of that vehicle, it is in such cases that the seller company applies for registration certificate in its own name. The sub rule provides for the issuance of certificate of registration to the seller company in such cases. Obviously, the certificate has to be in the name of the seller company and not in the name of the former owner, who has defaulted and is no more the owner. The reference to "duplicate certificate" in the said sub-rule is rather confusing, but from the context, in which it appears, the intention of the rule is to issue the registration certificate, in respect of the seized vehicle to the seller company. Hence, the above rule needs amendment to do away with the confusion caused by the term "duplicate certificate". The above amendment intends to achieve the purpose in view.

Kerala Gazette No 24 dated 16th June 1970.

PART I **Section Iv**

GOVERNMENT OF KERALA

Public Works (Transport-B) Department

NOTIFICATION

G. O. (P) No 85/70/PW. *Dated, Trivandrum, 23rd May* 1970.

S. R. O. No. 239/70.—In exercise of the powers conferred by sub-section (1) of section 70 of the Motor Vehicles Act, 1939 (Central Act 4 of 1939), the Government of Kerala, hereby make the following amendment to the Kerala Motor Vehicles Rules, 1961, the same having been previously published as required by sub-section (1) of section 133 of the said Act, namely:—

AMENDMENT

In the said Rules, after sub sule (2) of rule 288, the following shall be added, namely:—

" (3) Rear Wheel Cover—The rear Wheel cover of every motor cycle which provides a seat for pillion rider shall be properly covered by a suitable device so as to prevent garments of the pillion rider from getting entangled in the spokes of the wheel."

By order of the Governor,

R. GOPALASWAMY,
Secretary.

Explanatory Note

(This is not part of the amendment but is intended to bring out the main purport).

There has been several instances of accidents involving women pillion riders wearing sarees being thrown off the seat after the garments get entangled in the spokes of the rear wheel. It is therefore considered necessary in public interest, to cover the rear wheel by a suitable device so as to prevent such accidents. The amendment is made with this object in view.

Kerala Gazette No. 24 dated 16th June 1970.
PART III

NOTIFICATION

Certificate Examination in Food Craft Course of the Food Craft Institute, Kalamassery—July 1970.

No. Ex. E5-16206/70. *9th June 1970.*

It is hereby notified that the following Certificate Examinations in Food Craft of the Food Craft Institute, Kalamassery will be conducted as per the time table given in this notification.

1. Craft Certificate Examination in Bakery and Confectionery.
2. Craft Certificate Examination in Restaurant and Counter Service.
3. Craft Certificate Examination in Hotel Reception and Book keeping.
4. Craft Certificate Examination in Cookery.

Food Craft Institute, Kalamassery will be the Centre for the Examination and the Principal of the Institute will be the Chief Superintendent for the conduct of the Examination.

Candidates who have undergone the prescribed course satisfactorily in the Food Craft Institute, Kalamassery alone are eligible to appear for the Examination; candidates who failed in the Examination should appear for all the papers and practicals of the ensuing Examination.

Fee for the Examination should be remitted into the Treasury under the head of account XXII F (d) i.

The Examination fees from the candidates (Regular) may be collected by the Principal and remitted into the Treasury under the Head of account XXII F (d) i in one chalan in the name of the Principal. Private candidates appearing for the Examination should remit the fee in the name of the candidate himself/herself and forward the application with the original chalan receipt to this office through the Principal of the Institute. The Principal may collect the application of the Private candidate and prepare the list in the form supplied from this Office and forward the same to this office with the applications and chalan receipts and the Nominal list and chalan receipt relating to the Regular candidates before the last date. The nominal list of Private candidates may be prepared in a separate sheet.

Note:—Private candidates means the candidate who had undergone the course in the Food Craft Institute, Kalamassery, but failed in the Examination.

The fee for the Examination is Rs. 30.

On no account the examination fees be sent to the this office in Cash or Cheque or money Order or in any other forms. Amount remitted as Examination fee will not be refunded or adjusted towards a subsequent Examination.

G. 105/J.

The last date for the remittance of fee without fine:	23-6-1970.
The last date for the remittance of fee with a fine of Re. 1:	30-6-1970.
Last date for the receipt of Nominal list, application forms in the Office of the Commissioner for Government Examinations, Trivandrum-14:	7-7-1970.

TIME TABLE

Day and Date	*Time*	*Subjects*
Tuesday 28-7-1970	10 a.m. to 1 p.m.	1. Bakery I (Bakery and Confectionery)
		2. Waiting Part I (Restaurant and Counterservice)
		3. Receiption (Hotel reception and Book keeping)
Wednesday 29-7-1970	10 a.m. to 1 p.m.	1. Bakery II (Bakery and Confectionery)
		2. Waiting Part II (Restaurant and Counterservice)
		3. Book Keeping (Hotel reception and Book keeping)
Thursday 30-7-1970	10 a.m. to 1 p.m.	COOKERY (Cookery)

Note:—The above Time Table will be strictly followed as published eventhough after the publication of it a holiday is declared on any day of the Examination. The Examination should not under any circumstances be stopped without the orders of the Secretary to the Commissioner for Government Examinations.

Practical test will be conducted after the written Examination. The Time Table for the Practical test will bo drawn by the Principal of the Institution in consultation with the Examiners who will be appointed for the conduct of the Practical test.

Admission Tickets will be issued by the Chief Superintendent of the Institute at least 3 days before the date of commencement of the Examination.

If a candidate, who has been assigned Register number, desires to cancel his/her candidature for the Examination he/she should submit an application to the Commissioner for Government Examinations duly recommended by the head of the Institution before the date of commencement of the Examination. Partial appearance will be treated as one chance. Candidature will not be cancelled if the candidate had actually appeared in any papers of the Examination.

Office of the Commissioner
for Government Examinations,
Trivandrum-14.

P. LAKSHMANAN NAIR,
Secretary to the Commissioner
for Government Examinations.

FORM OF APPLICATION (PRIVATE CANDIDATES ONLY)

Application for Admission to the Certificate Examination in Food Craft July 1970.

1. Name of Centre.
2. Name of Examination.
3. Name of Candidate (in Block letters)
4. Religion. Community if backward.
5. Date of birth.
6. Address in full
7. Register Number and year of previous appearance. Reg. No. Year.
8. Amount of fee remitted and details of chalan noting the name of Treasury.

Station: Signature of the Candidate.

Date:

CERTIFICATE

Certified that the entries in the application made by the candidate have been carefully verified and found correct with this office records.

Station: Name and Signature of the Principal.

Date:

(Seal of the Institution)

Kerala Gazette No. 24 dated 16th June 1970
PART III

GOVERNMENT OF KERALA

Irinjalakuda Municipality

NOTIFICATION

No. E-1220/69

Dated, *20th May* 1970.

It is hereby notified for the information of the Public that the notification No. PH-1488/68 dated 20-7-1968 published in Part III of Kerala Gazette No. 37 dated 17-9-1968 is modified as below by this Municipal Council in its resolution No. 23 dated 2-3-1970 with retrospective effect from 20-7-1968.

Sec. of the Kerala Municipalities Act 1960.	Particulars	Rate of fee
228	3 (b) Latrines other than masonry or brick works	Fees exempted

Municipal Office,
Irinjalakuda.

A. T. DIVAKARAN,
Municipal Commissioner.

G. 1112